

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Corpus Christi DIVISION

Clerk, U.S. District Court
Southern District of Texas
FILED

JAN 10 2018

Timothée Rivera #855199
Plaintiff's Name and ID Number
MCCONNELL UNIT - TOCJ-CID
3001 S. Emily Drive Beeville, Tx 78102
Place of Confinement

David J. Bradley, Clerk of Court

CASE NO. _____
(Clerk will assign the number)

v.
Tanya Lawson
3001 S. Emily Drive Beeville, Tx 78102
Defendant's Name and Address
Martha Tijerina
3001 S. Emily Drive Beeville, Tx 78102
Defendant's Name and Address
Medical Director For Region Four, I. Kwarteng
3001 S. Emily Drive Beeville, Tx 78102
Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ___ YES X NO
- B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: McConnell Unit - TDCJ- CID

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? X YES ___ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Timothy Rivera

3001 South Emily Drive
Beeville, Texas 78102

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Tanya Lawson McConnell Unit medical manager.

3001 South Emily Drive Beeville, Texas 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Constantly giving false excuses to deny me HCV treatment.

Defendant #2: Martha Tijerina, RN medical WTMB

3001 South Emily Drive Beeville, Tx 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Constantly lying about reasons to deny treatment of my HCV.

Defendant #3: Dr. I. Kwarteng medical Director Region 4, WTMB.

3001 South Emily Drive Beeville, Tx 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Constantly denies treatment of my Hepatitis C.

Defendant #4: Dr. Sullivan, medical WTMB Galveston

John Seely Hospital Galveston, Tx

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Constantly denies treatment of my Hepatitis C.

Defendant #5: Ms Pickthall medical advisor Huntsville

P.O. Box 99 Huntsville, Tx 77342

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Constantly denies treatment of my Hepatitis C.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Defendants are acting with deliberate indifference to my serious medical needs. For over 9 years they have given every excuse known in an attempt to deny me the cure needed for my hepatitis C. I have taken all tests required over 9 years. Every year medical states that I will get the treatment needed after a series of tests, to no avail. All I want is treatment in a timely manner. Now I have developed cirrhosis of the liver from defendants delays. Defendants have now stated I refuse chair when all that medical does is go to WtMB Galveston then back to wait. This is called a tur around or

VI. RELIEF: total games.

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

only to have treatment for serious medical need of my liver and cure of my hepatitis C. Stop the delays of cure. Pain and suffering, court costs, if such is allowed. Thank you

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

Timotheo Rivera

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

855199

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES NO

- C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES ____ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): _____
 2. Case number: _____
 3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 5 day of January, 20 18.
(Day) (month) (year)

Timotheo Rivera

Timotheo Rivera
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

DEC 15 2017



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE FORM

Offender Name: Timothy Rivera TDCJ # 855199
 Unit: ML ✓ Housing Assignment: 4D 29 b
 Unit where incident occurred: ML

OFFICE USE ONLY

Grievance #: 2018003415
 UGI Recd Date: OCT 30 2017
 HQ Recd Date: NOV 03 2017
 Date Due: 12-14
 Grievance Code: 608
 Investigator ID#: I0352
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

Medical does nothing but lies, give false statements, feign, and delay medical treatment of a serious medical need of my Hep C.

Failure, after promising me for over 9 years, will be handled in court. Please help, now, not later

step one enclosed

Offender Signature: Timothy RiveraDate: 10-30-2017**Grievance Response:**

A review of the Step 1 medical grievance was completed regarding your complaint you have been denied treatment for your Hepatitis C disease. You stated you have requested treatment for over nine years and have been denied.

Review of the health record indicated you have signed Refusal of Treatment (ROT) forms for the required testing and assessment prior to treatment being started. Most recently, you were seen on 10/11/2017 where you again refused radiographic testing and consultation as required.

All medications, treatments, and referrals are based on the clinical findings of the provider at the time of their assessment. While you maintain the right to refuse any services offered, you do not have the liberty to dictate what medications, treatments, or appointments will be prescribed. Medication cannot be prescribed without all necessary testing and evaluations completed. Appellate review supports the response offered at Step 1. No further investigation is warranted through the grievance process for this issue.

**STEP II MEDICAL GRIEVANCE PROGRAM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES DIVISION**

Signature Authority: _____

Date: 11-30-17Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

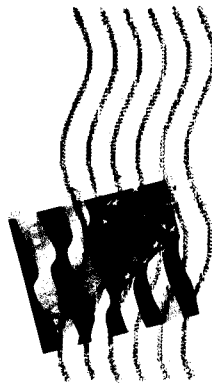
Comments: _____

Date Returned to Offender: _____

Tomtho Riveru 855149
3001 S. Emily Drive
Beaville, Tx 78102

U.S. District Court
1133 N. Shoreline Blvd, Rm 208
Corpus Christi, Texas
78401-9911

SAN ANTONIO TX 78201
RIO GRANDE DISTRICT
08 JAN 2018 PM 2 L

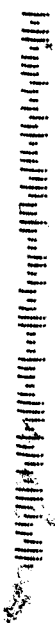


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Southern District of Texas

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78401-204258



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